

### REMARKS

Claims 1-17, 20-65 are pending, with claims 1, 33, 35-40, 46, 47, 58, and 61 being independent. Claims 1, 33, 35, 37, 38, 40, 46, 47, and 58 have been amended, claims 18 and 19 were previously cancelled, and new claims 61-65 have been added. Claims 3, 5-7, 9-10, 13-16, 25-30, 36, 39, and 42 have been withdrawn. Support for the amendments and new claims can be found in the specification as filed at, for example, page 7, line 5 to page 8, line 29 and FIGS. 2-7. No new subject matter has been added. Applicant requests that the double patenting rejections be held in abeyance until the claims are otherwise held allowable.

The Office action rejected claims 1, 8, 17, 20-23, 31, 33-35, 37, 38, 40, 41, 43-47, 49, 51, 53, 55, 57, 58, and 60 as being anticipated by U.S. Patent No. 6,652,518 to Wellman ("Wellman"). Applicant respectfully requests reconsideration and withdrawal of these rejections in view of the foregoing amendments and for at least the following reasons.

Independent claims 1, 33, 35, 37, 38, 40, 46, 47, and 58, as amended, recite a part of a flexible portion, member, or pivoting means is enclosed by a portion of a head such that the part of the flexible portion, member or pivoting means enclosed by the portion of the head defines an axis substantially transverse to the longitudinal axis of the shaft and about which the head is free to pivot.

Wellman fails to disclose or suggest the recited flexible portion in combination with the head. Rather, Wellman discloses an elongated shaft 30 (which the Examiner equates with the claimed flexible portion, member, or pivoting means) that is used to interconnect a handle 20 to an ablation head 40. According to the Office action, the shaft 30 defines a flexible portion which is enclosed by a portion of the head 40. Office action at 3 (citing col. 6, line 34 ("the shaft 30 is preferably a flexible or malleable shaft that can be bent to allow the ablation head to be positioned at a desired location.")). While Wellman discloses that the shaft 30 may be flexible or malleable so that it can be bent, there is nothing in Wellman that discloses or suggests that any portion of the shaft 30 is enclosed by a portion of the head 40 such that the shaft 30 defines an axis substantially transverse to its own longitudinal axis and about which the head 40 is free to pivot. Moreover, in the Office action, the Office merely asserts that "[t]he head is free to pivot

about an axis transverse to the longitudinal axis,” but there is nothing in Wellman that discloses or suggests pivoting of the head about an axis defined by a part of a flexible portion enclosed by a portion of the head. For at least these reasons, claims 1, 8, 17, 20-23, 31, 33-35, 37, 38, 40, 41, 43-47, 49, 51, 53, 55, 57, 58, and 60 are patentable over Wellman.

The Office action rejected dependent claims 2, 4, 48, 50, 52, 54, 56, and 59 as being unpatentable over Wellman in view of U.S. Patent No. 6,068,629 to Haissaguerre. For at least the reasons discussed above with respect to the independent claims, and because Haissaguerre also fails to disclose or suggest a part of a flexible portion, member, or pivoting means that is enclosed by a portion of a head such that the part of the flexible portion, member or pivoting means enclosed by the portion of the head defines an axis substantially transverse to the longitudinal axis of the shaft and about which the head is free to pivot, Applicant submits that dependent claims 2, 4, 48, 50, 52, 54, 56, and 59 are patentable over Wellman in view of Haissaguerre.

New claims 61-65 are patentable over the asserted references for at least the same reasons discussed above. In addition, independent claim 61 recites a flexible portion having a first end and a second end, the first and second ends of the flexible portion directly attached to an end of the shaft. There is no disclosure or suggestion in the asserted references of these features. Accordingly, Applicant respectfully submits that new claims 61-65 are in condition for allowance.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Respectfully submitted,

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